

STANDARDS IN SCOTLAND'S SCHOOLS ETC. ACT 2000

EXPLANATORY NOTES

THE ACT

Placing requests

Section 43 – Placing requests: extent of education authority's duty

88. The statutory placing request regime contained in sections 28A to 28G of the Education (Scotland) Act 1980 enables a person to make a written request to an authority to place his child at a particular school. That request must be granted unless one of a number of specified grounds of refusal apply. Section 43(1) and (2) of the Act makes it clear that a placing request may not be made for entry to a particular nursery school or class. By virtue of subsection (4), this limitation on the scope of the placing request regime does not apply where a child has a record of special educational needs.
89. In general terms, education authorities will be expected to take some account of parental preferences in the way in which they discharge their duty under section 1(1) and (1A) of the 1980 Act to secure adequate and efficient provision of pre-school education. That may be either at their own hand or in partnership with other providers. In discharging this duty, authorities will continue to be bound by section 28 of the 1980 Act, which requires them to have regard to the general principle that, "so far as compatible with the provision of suitable instruction and training and the avoidance of unreasonable public expenditure, pupils are to be educated in accordance with the wishes of their parents."

Section 44 – Further provisions as respects placing requests

90. Subsection (2) amends section 28A(1) of the 1980 Act to the effect that placing requests can be made only for children over school age. Separate provision dealing with parental requests for early entry to primary 1 is made in section 38 of the Act.
91. Subsection (3) empowers Scottish Ministers to issue statutory guidance to education authorities on section 28A(1) of the 1980 Act. Education authorities are not under an absolute duty to comply with the guidance but must have regard to it.
92. Subsection (4) adds two additional grounds on which an authority may refuse a placing request. The first is that granting the request would require the formation of an additional class or the appointment of an additional teacher at a future stage of the child's education at primary school. This reflects the recent introduction of lower maximum class sizes for primaries 1 to 3 than currently apply for primaries 4 to 7. The reconfiguration of classes within primaries 1 to 3 to comply with the reduced maximum size can result in the creation of a whole new class. This gives greater scope to accept placing requests for pupils at this stage of education. It can, however, cause problems at later stages where that spare capacity does not exist. This provision enables an authority to refuse a placing request for primary 1 to 3 in this kind of circumstance.

93. The second additional ground on which an authority may refuse a placing request is if accepting it would mean that the school's maximum capacity would be breached. This could be the case even if the first two grounds for refusing a placing request set out in section 28A(3a) are not met (that placing a child in the specified school would make it necessary for the authority to take an additional teacher into employment or give rise to significant expenditure on extending or otherwise altering the accommodation at or facilities provided in connection with the school).
94. Subsections (5) and (6) relate to authorities' ability to refuse a placing request in order to reserve places at schools for children moving into the catchment area. Subsection (6) repeals subsections (3B) and (3E) of section 28A, which restrict an authority's ability to reserve places for catchment area children at a school to cases where there is an equivalent school within walking distance. This repeal has the effect of allowing authorities to reserve places on this basis at all schools. In accordance with section 28(3C), which defines "reserved places", authorities can reserve only as many places as are in their opinion reasonably required to accommodate pupils likely to become resident in the catchment area of the school. A consequential amendment is also made to subsection (3A).
95. Subsection (7) applies subsections (3) to (6) (described above) to schedule A2 of the Education (Scotland) Act 1980, which relates to placing requests for recorded children. It also ensures that parents of children with a record of special educational needs may make a placing request for a school or a centre with which the authority has an arrangement for the provision of pre-school education, as well as schools under the direct management of the authority.